

DECISION RECORD

LAKE HAVASU FIELD OFFICE Wildlife Water Improvement – Red Cliff La Paz County, AZ DOI-BLM-AZ-C030-2013-044-EA

Introduction

The Arizona Game and Fish Department (AGFD) is proposing to construct a new collection point and feed line for the Red Cliff wildlife water located in the Gibraltar Mountains in La Paz County, Arizona. This improvement project would allow for more efficient water collection during a range of rain events, therefore improving water availability to local wildlife populations.

Scoping and Public Involvement

An interdisciplinary (ID) team analyzed the potential consequences of the proposal during internal scoping held on October 16, 2012. As a result of internal scoping and discussions, invasive and non-native species, threatened and endangered species, and wildlife were issues analyzed in the Environmental Assessment (EA).

On 12/12/2013 the BLM initiated a 30-day scoping period with the following Native American tribes: Fort Mohave Indian Tribe, Colorado River Indian Tribes, Hualapai Tribe, and Chemehuevi Tribe. A letter requesting their input and coordination was sent in December. No response was received by January 14th, 2014 from any of the tribes.

Land Use Conformance

The Proposed Action complies with the *Lake Havasu Field Office Resource Management Plan* (RMP) approved on May 10, 2007 and is in conformance with the RMP. It is consistent with the following RMP objectives, terms and conditions:

- “Distribution/density of wildlife waters throughout the planning area will be maintained, improved, and/or increased to sustain and enhance wildlife populations across their range. All existing wildlife waters will be maintained or improved as necessary to maintain the presence of perennial water for wildlife. New wildlife waters, including in new locations, may be constructed if necessary to replace old wildlife waters, restore, or enhance native wildlife populations and for improving wildlife distributions. All wildlife water projects will be evaluated through the NEPA analysis to determine necessity and effects.” WF-23 pg. 20.
- “The BLM will manage all wildlife habitats with the objective to conserve native species for sustainable public benefits.” WF-2 pg. 17

- “Wildlife habitat improvement projects will be implemented where necessary to stabilize or improve degraded or declining wildlife habitat conditions.” WF-17 pg. 19
- “The administrative use of motorized/mechanized equipment for natural and cultural resource management will be allowed. Administrative activities include, but are not limited to, water supplementation, collar retrieval, and capture/release of wildlife, maintenance/repair and reconstruction or construction of wildlife waters. Cross-country travel for administrative purposes will be permitted only with prior approval by the authorized officer. Any administrative actions will be conducted in a manner that creates the least disturbance and reclaimed as soon as possible after the administrative need has ended.” Decision WC-5 pg 123.

Authority

National Environmental Policy Act (NEPA)

Any action conducted on federally-administered lands or an action that utilizes federal dollars must be evaluated to determine if significant economic, social, or environmental effects may occur as a result of the Proposed Action. The assessment of the Proposed Action must also identify a reasonable range of Action Alternatives and the associated environmental effects of the Actions.

Federal Land Policy and Management Act (FLPMA)

The BLM is mandated by the Federal Land Policy Management Act of 1976 to manage for multiple uses on BLM-administered lands. Land use planning is based on multiple use and sustained yield principles. This includes grazing, mining, land sales, acquisitions, and exchanges.

The Federal Land Policy and Management Act (FLPMA) of 1976 (Public Law 94-579) require that the Secretary of the Interior regulate mining operation to prevent undue or unnecessary degradation of the public lands.

Clean Water Act

Section 313 of the Clean Water Act of 1972 requires federal agencies be in compliance with all federal, state, interstate, and local requirements. In Arizona, the Arizona Department of Environmental Quality (ADEQ) implements the Clean Water Act.

Migratory Birds

Executive Order 13186 expressly requires that Federal agencies evaluate the effects of proposed actions on migratory birds (including eagles) pursuant to the NEPA “or other established environmental review process;” restore and enhance the habitat of migratory birds, as practicable; identify where unintentional take reasonably attributable to agency actions is having, or is likely to have, a measurable negative effect on migratory bird populations; and, with respect to those actions so identified, the agency shall develop and use principles, standards, and practices that would lessen the amount of unintentional take, developing any such conservation efforts in cooperation with the United States Fish and Wildlife Service (USFWS).

Cultural Resource Laws and Executive Orders

BLM is required to consult with Native American tribes to “help assure (1) that federally recognized tribal governments and Native American individuals, whose traditional uses of public land might be affected by a proposed action, will have sufficient opportunity to contribute to the decision, and (2) that the decision maker will give tribal concerns proper consideration” (U.S. Department of the Interior, BLM Manual Handbook H-8120-1). Tribal coordination and consultation responsibilities are implemented under laws and executive orders that are specific to cultural resources which are referred to as “cultural resource authorities,” and under regulations that are not specific which are termed “general authorities.” Cultural resource authorities include: the National Historic Preservation Act of 1966, as amended (NHPA); the Archaeological Resources Protection Act of 1979 (ARPA); and the Native American Graves Protection and Repatriation Act of 1990, as amended (NAGPRA). General authorities include: the American Indian Religious Freedom Act of 1979 (AIRFA); the National Environmental Policy Act of 1969 (NEPA); the Federal Land Policy and Management Act of 1976 (FLPMA); and Executive Order 13007-Indian Sacred Sites. The proposed action is in compliance with the aforementioned authorities.

Special Stipulations

1. “Pack it in Pack it Out!” All trash and debris caused by the activity shall be removed. All litter, trash, and garbage shall be controlled by placing refuse in predator-proof, sealable receptacles and removing the debris regularly from the worksite.
2. Care shall be taken not to disturb or destroy desert tortoises or their burrows. Handling, collecting, damaging, or destroying desert tortoises are prohibited by Arizona State Statute. Any sightings of desert tortoise shall be immediately reported to the LHFO, Wildlife Biologist at (928) 505-1200. If a desert tortoise is endangered by any activity that activity shall cease until the desert tortoise moves out of harm’s way on its own accord or is moved following the attached guidelines “Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects.”
3. If a vehicle is left for any occasion the driver shall inspect underneath any parked vehicles immediately prior to moving the vehicles. If a desert tortoise is beneath the vehicle, the authorized biologist shall move the tortoise from harm’s way. Alternatively, the vehicle shall not be moved until the tortoise has left of its own accord.
4. All wildlife and migratory birds shall be observed from a distance. Any injured wildlife shall be reported to Arizona Game & Fish Department at (928) 342-0091.
5. Harassment of wildlife or destruction of private and public improvements, such as fences and gates, is prohibited. The taking of any threatened or endangered plant or animal is prohibited.
6. Participants will be prohibited from approaching Bighorn Sheep on foot or by vehicle.
7. State protected plant species (all cactus, ocotillo, and native trees) shall be avoided. If they cannot be avoided they will be salvaged and replanted during reclamation. The operator shall report all State protected species destroyed or damaged to the Lake Havasu Field Office Biologist at (928) 505-1200.
8. All personnel should report any sightings of desert tortoise, bighorn sheep, and other wildlife species to the LHFO Biologist.
9. In the event of an inadvertent discovery of archaeological or historical cultural resources, the BLM Lake Havasu Field Office would be notified immediately. All activity in the

discovery area would cease until an evaluation of the discovery is made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values.

Rationale

Under the Proposed Action, the AGFD would construct a new collection point and feed line at the Red Cliff wildlife water to increase the amount of water collected during rain events. The project would not have significant effects to the human environment and the Finding of No Significant Impact is hereby incorporated by reference. The decision to allow the Proposed Action does not result in any undue or unnecessary environmental degradation, and is in conformance with the *Lake Havasu Field Office Resource Management Plan*.

DECISION

It is my decision to authorize the Proposed Action as described in Environmental Assessment DOI-BLM-AZ-C030-2013-044-EA. The Proposed Action will be subject to the stipulations attached to this environmental assessment.

APPROVED

\s\Kimber Liebhauser Authenticated by Jennifer House
Kimber Liebhauser, Field Manager
Lake Havasu Field Office

3/14/2014
Date

APPEALS

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, your notice of appeal must be filed in the Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, AZ 86406 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the Lake Havasu Field Office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.